

**Notice of Allowability**

Application No.

09/653,767

Examiner

Jonathan Ouellette

Applicant(s)

ALLAN ET AL.

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/3/2007.
2. ☒ The allowed claim(s) is/are 1-15, 26-61 and 67-70.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application
- ☒ Interview Summary (PTO-413), Paper No./Mail Date 20071022.
- ☐ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other \_\_\_\_\_.

## **DETAILED ACTION**

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Oleg Kaplun on 10/22/07 (See Attached Examiner Interview Summary – 20071022).
3. The application has been amended as follows:

Claim 65 - CANCELLED

Claim 66 - CANCELLED

Claim 71 - CANCELLED

Claim 72 - CANCELLED

Claim 73 - CANCELLED

### ***Response to Amendment***

4. Claims 16-25 and 62-64 have been cancelled, and Claims 65, 66 and 71-73 have been cancelled by Examiner's Amendment; therefore, Claims 1-15, 26-61, 67-70 are examined below.

***Claim Rejections - 35 USC § 112***

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5. The rejection of Claims 1-15, 26-61, 67-70 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, is withdrawn due to the persuasiveness of Applicant's arguments.

*Allowable Subject Matter*

6. **Claims 1-15, 26-61, 67-70 are allowed.**
7. The following is an examiner's statement of reasons for allowance:
8. As per **independent Claims 1, 60, 67, 68**, the prior art does not teach or suggest the calculation of a "busyness metric" and using the calculated busyness metric to determine length specific ads to display.
9. As per **independent Claims 1 and 68, Sleeper (US 6,401,074)** discloses a method for displaying advertisements ("ads") at a point-of-sale (POS) location, the method (computer-readable medium) comprising: determining an advertisement for display and displaying the ad (Abstract, C1 L35-67, C2 L1-9).
10. Sleeper fails to expressly disclose dividing a consumer transaction at a POS location into multiple time frames, a total duration of time frames equaling a total duration of the transaction; and determining/displaying an add in said time frame; and adjusting a duration of the ad based on whether the one of the time frames has ended.
11. However, Sleeper does disclose defining parts of a transaction (total transaction) by events, and displaying commercial information based on the event (C1 L35-67, C2 L1-9, C6 L50-67, C7 L1-8, C8 L9-27)

12. Furthermore, Sleeper discloses *showing different information/messages based on the event (abstract, equivalent to changing the ad based on the time frame/event)*.
13. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included dividing a consumer transaction at a POS location into multiple time frames and determining/displaying an add in said time frame; and adjusting a duration of the ad based on whether the one of the time frames has ended, in the system disclosed by Sleeper, for the advantage of providing a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, with the ability to increase customer response/attentiveness by displaying a relevant advertisement as the transaction progresses.
14. As per **independent Claim 60**, Sleeper discloses a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, the method comprising: receiving a first ad (message) for display during a first time frame (event) and without regard to whether the transaction meets predetermined criteria (Abstract, C1 L35-67, C2 L1-9); then engaging in the transaction; during the transaction, receiving a second ad for display during a second time frame when the transaction meets predetermined criteria (messages corresponding to events) (Abstract, C1 L35-67, C2 L1-9).
15. Sleeper fails to expressly disclose dividing a consumer transaction at a POS location into multiple time frames, a total duration of time frames equaling a total duration of the transaction; and determining/displaying an add in said time frame; and adjusting a duration of the ad based on whether the one of the time frames has ended.

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16. However, Sleeper does disclose defining parts of a transaction (total transaction) by events, and displaying commercial information based on the event (C1 L35-67, C2 L1-9, C6 L50-67, C7 L1-8, C8 L9-27)
17. Futhermore, Sleeper discloses *showing different information/messages based on the event (abstract, equivalent to changing the ad based on the time frame/event).*
18. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included dividing a consumer transaction at a POS location into multiple time frames and determining/displaying an add in said time frame; and adjusting a duration of the ad based on whether the one of the time frames has ended, in the system disclosed by Sleeper, for the advantage of providing a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, with the ability to increase customer
19. As per **independent Claim 67**, Sleeper discloses a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, the method comprising: transmitting information about a transaction to an ad-management service; determining on the ad-management service, based on the information, an ad for display; receiving a response indicating the service, based on the information, an ad for display (Abstract, C1 L35-67, C2 L1-9); receiving a response indicating the service-determined ad; producing an ad when the transaction meets predetermined criteria; displaying the determined ad in one of (1) a one time frame and (2) a frame following the one time frame from its beginning but not through its end due to an action of a consumer but other wise from its beginning through its end; and repeating the steps of determining and displaying an ad with

successive ones of the multiple time frames (events) until the transaction completes

(Abstract, C1 L35-67, C2 L1-9).

20. Sleeper fails to expressly disclose dividing a transaction into time frames, a total duration of the time frames equaling a total duration of the transaction, each of the time frames spanning one of the following activities: waiting for a consumer to begin a transaction; greeting a consumer; beginning a transaction; selecting a form of payment; swiping a card for a form of payment; entering a security code for the form of payment; identifying a product for purchase; displaying a total cost for products identified for purchase; signing for a transaction; thanking a consumer (for) his purchase; surveying a consumer; promoting an event; applying for a credit card; informing a consumer; identifying a consumer; interacting with a consumer; and passing through an interstitial period; and if the ad is displayed in the one time frame, adjusting a duration of the ad based on whether the one time frame has ended.
21. However, Sleeper does disclose defining parts of a transaction by events, and displaying commercial information based on the event (C1 L35-67, C2 L1-9, C6 L50-67, C7 L1-8, C8 L9-27).
22. Furthermore, Sleeper discloses *showing different information/messages based on the event (abstract, equivalent to changing the ad based on the time frame/event)*.
23. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included dividing a transaction into, each of the time frames spanning one of the following activities: waiting for a consumer to begin a transaction; greeting a consumer; beginning a transaction; selecting a form of payment; swiping a

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card for a form of payment; entering a security code for the form of payment; identifying a product for purchase; displaying a total cost for products identified for purchase; signing for a transaction; thanking a consumer (for) his purchase; surveying a consumer; promoting an event; applying for a credit card; informing a consumer; identifying a consumer; interacting with a consumer; and passing through an interstitial period; and if the ad is displayed in the one time frame, adjusting a duration of the ad based on whether the one time frame has ended, in the system disclosed by Sleeper, for the advantage of providing a method for displaying advertisements ("ads") at a point-of-sale (POS) location, with the ability to increase customer response/attentiveness by displaying a relevant advertisement as the transaction progresses.

24. Sleeper also fails to expressly disclose prioritizing any ads competing for display, producing an ad with highest priority, by setting the priority of an ad for display when the transaction meets predetermined criteria (a "specific ad") higher than the priority of an ad for display when no specific ad is available; determining the ad with highest priority as the ad for display.
25. However, **Dejaeger et al. (US 6,456,981 B1)** discloses compiling a database of advertising material for display at a POS system, and selectively picking adds to provide the consumer (C12 L25-53). Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to selectively draw the advertisements based on a priority structure (i.e.: paid advertisers over store information, etc.).
26. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included prioritizing any ads competing for display,

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producing an ad with highest priority, by setting the priority of an ad for display when the transaction meets predetermined criteria (a “specific ad”) higher than the priority of an ad for display when no specific ad is available; determining the ad with highest priority as the ad for display, as disclosed by Dejaeger, in the system disclosed by Sleeper, for the advantage of providing a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, with the ability to increase customer response/attentiveness by displaying a relevant advertisement as the transaction progresses and by allowing additional revenue channels through advertisement charges.

27. Finally, Although Sleeper does disclose the ability to obtain user input (C12, L19-25), and Dejaeger discloses recording survey results related to advertisements; Sleeper and Dejaeger fail to expressly disclose recording a representation of any response to the ad.
28. However, **Kolls (US 6,615,183)** discloses recording a representation of any response to a POS ad (Claim 1).
29. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included recording a representation of any response to the ad as discloses by Kolls, in the system disclosed by Dejaeger, in the system disclosed by Sleeper, for the advantage of providing a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, with the ability to increase customer service by tracking customer interactions with the POS advertising and developing marketing plans with the tracked information.



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30. However, none of cited prior art (separately or in combination) teaches or suggests the calculation of a "busyness metric" and using the calculated busyness metric to determine length specific ads to display.
31. The remaining dependent Claims 2-15, 26-59, 61, 69, and 70 are considered allowable, as they are dependent and based off of an allowable independent claim.
32. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### *Conclusion*

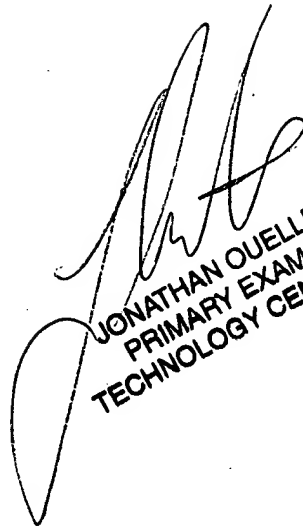
33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
34. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.
35. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent

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October 24, 2007

  
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PRIMARY EXAMINER  
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